

**DECISION**

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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-213741

**DATE:** July 23, 1984

**MATTER OF:** Gary L. Barlow and Terry R. Cooper

**DIGEST:**

Employees, who assumed the previous owners' mortgages in purchasing residences upon change of duty station, were assessed a loan assumption fee and a service charge, respectively. Where the fees are 1 percent and 1.5 percent of the loan balances, respectively, and the lending institutions state that they have the same meaning as a loan origination fee when a new loan is being made, the fees are similar to a loan origination fee and may be reimbursed under revised regulations effective October 1, 1982.

An authorized certifying officer<sup>1</sup> of the Department of Agriculture requests a decision as to whether two employees may be reimbursed a loan assumption fee and a service charge, respectively, which they paid in connection with the purchase of residences at their new duty stations. These fees may be reimbursed because they are similar in nature to loan origination fees which are reimbursable under a recent revision of the Federal Travel Regulations.

Facts

Gary L. Barlow

By order dated September 8, 1982, Gary L. Barlow was transferred from Burns, Oregon, to John Day, Oregon. He reported for duty at his new official station on October 12, 1982, and purchased a residence there on which the settlement date was April 14, 1983. On the residence he purchased he assumed the existing mortgage loan of \$23,282.17, through the Pioneer Federal Savings and Loan Association for which he was charged a "loan assumption fee" of \$349.23, which represents about 1.5 percent of the balance of the loan. The agency took exception to his claim for reimbursement of

<sup>1</sup> W. D. Moorman, Authorized Certifying Officer, National Finance Center, Office of Finance and Management, Department of Agriculture, New Orleans, Louisiana.

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the fee on the basis of an opinion from Region X of the General Services Administration. That opinion was to the effect that since a loan assumption fee is not specifically listed as reimbursable in paragraph 2-6.2d(1) of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), and it had been considered as a finance charge in the past, the fee was not reimbursable.

Terry R. Cooper

Terry R. Cooper was transferred from Russellville, Arkansas, to Asheville, North Carolina, by order dated June 10, 1983. He reported for duty at his new official station on July 24, 1983, and on August 18, 1983, settled on a residence he purchased in Weaverville, North Carolina. On the loan of \$30,894.84 that he assumed on the residence he purchased the Asheville Federal Savings and Loan Association charged him a 1 percent "service charge" of \$308.95. Reimbursement of this fee was suspended, apparently, on the view that it also may be a finance charge and not reimbursable.

Issues

The certifying officer asks two questions:

- "1. Would a Loan Assumption Fee and Service Charge be considered as charges similar in nature to a loan origination fee and, therefore, be reimbursable?
- "2. If the fees are not considered similar, would a breakdown, as to what costs are covered, be required in order to determine if any reimbursable items are included in the fees?"

A loan assumption fee and a service charge may be considered as charges similar in nature to a loan origination fee and be reimbursable when they are assessed instead of a loan origination fee and the amount of each fee permits a reasonable inference that it is intended for use by the lending institution to offset its administrative and related expenses. Since the fees here are considered similar to loan origination fees, there is no need to answer question No. 2.

### Discussion

As pointed out by the certifying officer, under provisions of the Federal Travel Regulations in effect prior to October 1, 1982, our decisions held that loan origination fees, loan assumption fees, and service charges were not reimbursable because they were finance charges within the meaning of the Truth in Lending Act, 15 U.S.C. §§ 1601-1667 (1982), as implemented by Regulation Z of the Federal Reserve Board, 12 C.F.R. § 226.4 (1983). As such, these fees were precluded from reimbursement by paragraph 2-6.2d of the FTR. However, effective October 1, 1982, the General Services Administration amended paragraph 2-6.2 of the FTR to specifically authorize reimbursement for loan origination fees. Bulletin FPMR A-40, Supplement 4, August 23, 1982. That paragraph also provides for reimbursement of "other fees and charges similar in nature \* \* \* unless specifically prohibited." We have held that under the revised regulations even if a particular loan assumption fee is characterized as a finance charge under the Truth in Lending Act, it may be reimbursed if it reflects charges for services similar to those covered by a loan origination fee. Edward W. Aitken, B-214101, May 7, 1984, 63 Comp. Gen. \_\_\_\_.

More recently we discussed the nature of loan origination fees and the fact that in allowing reimbursement thereof it was intended that the administrative expenses of the lending institution which were passed on to the purchaser of a residence would be reimbursed. It was noted that the same term is used in identifying "buyers points" or a loan discount which is charged so that the buyer is able to obtain more favorable interest rates. We found that the intent of the October 1, 1982 amendment of the FTR was to reimburse administrative costs which were being passed to the buyer but not to reimburse loan discounts or points if they were included in a loan origination fee. Roger J. Salem, B-214018, June 27, 1984, 63 Comp. Gen. \_\_\_\_.

Here, both fees were assessed on the claimant's assumption of existing loans. No origination fee was assessed, and the lending institutions involved both state that these fees serve the same purpose for a loan assumption as a loan origination fee when new loans are created. We note that the service charge assessed Mr. Cooper was 1 percent and the assumption fee assessed Mr. Barlow was 1.5 percent of the

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loan balance. Based on these facts it is reasonable to infer that the charges were intended to offset expenses generated by the transactions.

Since the agency has determined that the loan assumption fee charged to Mr. Barlow and the service charge assessed on Mr. Cooper are customarily paid by the purchaser in the areas involved, they are reimbursable under FTR paragraph 2-6.2d(1) consistent with the other limitations contained in the FTR. Edward W. Aitken, B-214101, 63 Comp. Gen. \_\_\_\_, supra.

for *Milton J. Barlow*  
Comptroller General  
of the United States